REMARKS

Consideration of the amendments is respectfully requested. The amendments find support in the application as originally filed and adds no new matter pursuant to 37 C.F.R. 1.121(f). The amendments are made pursuant to 37 C.F.R. 1.121.

Status of Claims

Claims 1-16 are pending in this application.

Claims 1-16 are currently amended.

ALLOWABLE SUBJECT MATTER

Regarding Claims 5-8 and 12-16, such claims have been indicated allowable. Claims 5-8 and 12-16 have been amended for minor errors.

Claim Rejection Under 35 U.S.C. 103(a) As Being Unpatentable Over Miller (U.S. Patent No. 5,585,866) and Tsumara et al. (U.S. Patent No. 5,262,765)

In paragraphs 1 and 2 of the Office Action, the Examiner rejected Claims 1-4 and 9-11 under 35 U.S.C. 103 (a) as unpatentable over Miller (U.S. Patent No. 5,585,866) and Tsumara et al. (U.S. Patent No. 5,262,765). In response, Applicants amended indpendent Claims 1 and 9 to better clarify Applicants' invention.

In the rejection, the Examiner expressly acknowledges that the principal reference, Miller, "**fails to specifically disclose a memory for storing display information representing an animated images as recited in the claim.**" (Office Action, end of page 2). Accordingly, the Examiner relies on Tsumura et al. and states that "**Tsumura discloses an apparatus comprising memory (6) for storing display information representing animated image and displaying an audio program with the animated image for the advantage of providing visual enjoyment with music to users. See abstract, col. 1, line 29-45 and col. 2, lines 3-21, 51-64.**"

Claim 1, as amended, reads as follows:

1. An apparatus for processing a first type of program having both audio and video content and a second type of program having audio-only content, characterized in that:

memory means for storing display information representing an animated image;

means for selecting a program;

control means for determining a type of program of the selected program; and based on the determining, if the selected program is the first type of program, the control means causes playing of the audio content and displaying of the video content associated with the selected program and based on the determining, if the selected program is the second type of program causes playing of the audio-only content associated with the selected program and displaying of the stored animated image. (Emphasis added)

Miller illustrates a DMX screen 500 for the selection of an audio program of a DMX service. Applicants acknowledge that the audio program of the DMX service probably has "audio-only content". However, Miller **does not** disclose a "*control means*" functioning in the manner as claimed as emphasized. More specifically, Miller **does not** disclose "*a control means for determining a type of program of the selected program; and based on the determining, if the selected program is the first type of program, the control means causes playing of the audio content and displaying of the video content associated with the selected program and based on the determining, if the selected program is the second type of program causes playing of the audio-only content associated with the selected program and displaying of the stored animated image.*"

Miller provides a DMX virtual channel screen 500 described as "offers six channels of music, channels 41-46. The screen 500 is displayed on the user's television when a channel between 40-46, inclusive, is selected." (See column 30, lines 23-28). Furthermore, Miller describes, in column 30, lines 59-65, that "once a channel name is highlighted, the user may press the ENTER key 44 to tune to the selected channel and hear the music playing on it. The EXIT area 505, when selected and activated, causes the user to EXIT the DMX service." In a still further embodiment, Miller describes that "the user need not press the remote controller ENTER key to listen to a new channel each time a new channel name is highlighted;

the playing music will correspond to the highlighted channel name as the cursor is moved," as described in column 31, lines 10-15. In a still further embodiment, Miller discloses "the DMX main screen 500 displays the title of the piece currently playing on each channel. In another embodiment, the artist performing the piece is also displayed. In a still another embodiment, the record company's name is also displayed. In another embodiment, the time remaining in the piece is also displayed. In yet another embodiment, the type of music currently played on each DMX channel, ...is also displayed," as described in column 31, lines 24-34. (Emphasis added)

Accordingly, Miller **does not** provide "a control means for determining a type of program of the selected program; and based on the determining, ..." Instead, Miller displays various information for the music channels before they are even "**selected**." Based on the DMX service, the screen 500 provides various displayed elements to select, exit, listen, look ahead, etc. The only function, described by Miller, when the music channel is highlighted (or selected), is that the system will tune to the channel (column 30, line 60).

The Examiner relied on Tsumara et al. for a teaching of a stored animated image being displayed with music. However, Tsumura et al. is related to a "device for the composition and display of animation images along with lyrics on a karaoke visual display medium without detracting from the benefits of music data based on the MIDI standard," as described in column 2, lines 1-7. In addition, Tsumura et al. **does not** discloses "based on the determining, if the selected program is the second type of program causes playing of the audio-only content associated with the selected program and displaying of the stored animated image." While Tsumura et al. discloses displaying a stored animated image such image **is not** for a "selected program" having "audio-only content" since "karaoke," the field of endeavor disclosed in Tsumura et al., has a visual content associated therewith (such visual content being the "lyrics"). Moreover, the invention by Tsumura et al. utilizes the karaoke visual display medium to display the animated imaged. Accordingly, Tsumura et al. **is not** concerned with selected programs having "audio-only content."

In light of the foregoing comments and amendment, the combination of Miller in view of Tsumura et al. **does not** teach the claimed limitations and such rejection under 35 U.S.C. 103(a) should be withdrawn. Furthermore, there is **no motivation** to modify Miller in view of Tsumura et al. since Miller has **nothing** to do with

"karaoke". Miller is **not adapted** for the MIDI standard and **does not** provide for the display of lyrics with the music.

Since dependent Claims 2-4 depend from Claim 1, then for the reasons set forth above regarding the allowability of Claim 1, dependent Claims 2-4 are also allowable.

Since Claim 9 is similar in scope as Claim 1, then for the reasons set forth above regarding the allowability of Claim 1, Claim 9 is also allowable over the prior art of record.

Since dependent Claims 10-11 depend from Claim 9, then for the reasons set forth above regarding the allowability of Claim 9, dependent Claims 10-11 are also allowable.

No additional fee is believed due. However, if an additional fee is due, please charge the additional fee to Deposit Account No. 07-0832.

CONCLUSION

In view of the foregoing remarks and amendments, the Applicants believe that they have overcome all of the Examiner's basis for rejection, and that this application therefore stands in condition for allowance. However, if the Examiner is of the opinion that such action can not be taken, the Applicants request that he contact the undersigned attorney in order to resolve any outstanding issues without the necessity of issuing another Office Action.

Respectfully submitted,

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I hereby certify that this written communication is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

May 28, 2003 — Patricia M. Fedorowycz

Date **Patricia M. Fedorowycz**